



United States Senator • Illinois

Peter G. Fitzgerald

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To: Bob Cohn
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From: Senator Peter G. Fitzgerald
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Re: Letter
Date: 2/11
Pages (including cover page): 6

signed letter without attachments for your files

Congress of the United States

Washington, DC 20510

February 11, 2004

The Honorable Kenneth Mead
Inspector General
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington D.C. 20590

Dear Inspector General Mead :

We write you to request that you investigate the FAA's process for reviewing and approving the City of Chicago's proposed O'Hare Modernization Plan (OMP).

I. BACKGROUND:

Chicago is proposing to tear up the runways at O'Hare and to entirely re-build the airport with a different layout. Chicago claims that the new airport layout would increase O'Hare's capacity from 900,000 to 1.6 million operations a year. But Chicago's own studies conclude that the airport will become grid-locked with far fewer flights, and that delays at the projected OMP traffic levels will be worse than they are today -- more than twice the FAA's acceptable delay standard. Further, in order to accommodate the increase in projected annual passengers from 35 million to 70 million, Chicago will also have to double the terminal and gate capacity of the airport, expand the interstate highways leading into O'Hare and make substantial improvements to the mass transportation systems leading into and out of O'Hare.

According to the City's recently issued Master Plan, tearing up and re-building the runways alone will cost \$6.6 billion. Adding additional terminals, highway and public transit access, and ongoing capital improvements will bring the total cost of O'Hare expansion to at least \$15 billion (not including likely cost overruns). These costs would make it by far the most expensive airport development project in aviation history. To put it into perspective, the O'Hare expansion would cost nearly three times as much as the total cost of building the entire new Denver International Airport ("DIA"). And, DIA exceeded its initial cost projections by 180%.

The City has stated that it cannot proceed with the OMP without hundreds of millions of dollars of federal (AIP) grants. Indeed, the airlines have required that no bonds be issued until FAA issues Letter of Intent commitments of at least \$450 million (\$150 million for Phase 1 and

\$300 million for Phase 1C). Despite these federal funding prerequisites, Chicago is now requesting that the FAA approve, in isolation, its revised Airport Layout Plan for the \$6.6 billion OMP, which deals only with the configuration of the new runways. Once the City obtains ALP approval it has stated it will begin acquisition and demolition of the homes and businesses of the surrounding communities, even before the FAA has acted on AIP grant issues. The City apparently intends to seek AIP funding for the OMP and for the necessary landside and surface transportation improvements at a later time. This piecemeal approach is really an attempt to shield the OMP from critical cost-benefit review. The City is attempting to begin destruction and demolition of the surrounding communities before the FAA evaluates the economic merits of the project.

Given the magnitude of the stakes at issue, including massive requirements for federal funds, the FAA's decision requires more than piecemeal consideration. The FAA must examine the economic viability and cost-benefits of the project in the context of its current ALP review.

II. THE DEL BALZO REPORT:

The communities of Bensenville and Elk Grove Village, Illinois, (the "Villages") adjoin O'Hare Airport to the west. They oppose the OMP and favor, as an alternative, the development of a supplemental regional airport to the south as first recommended by the FAA as far back as 1984. (See, FAA Record of Decision on the 1980's proposed O'Hare expansion: "Development of another air carrier airport to serve the Chicago Metropolitan Area will be studied as part of a State System Plan to be prepared by the Illinois Department of Transportation under a series of grants to be funded by the FAA's Airport Improvement Program.") The initial grant was issued in September 1984. The State has in fact used those funds to acquire the land for the development of a south suburban airport near Peotone.

The Villages have retained a highly respected aviation expert, former FAA Acting Administrator Joseph Del Balzo, as a consultant. After studying the OMP, Mr. Del Balzo made the following determinations:

- The OMP will not achieve claimed benefits; it will actually increase, not decrease delays and congestion.
- The OMP will not provide adequate capacity to meet the region's aviation growth needs, primarily due to airspace, not runway, constraints.
- The OMP will create serious safety risks.
- The OMP will be far too costly, will be economically unviable, will require more AIP funds than available, and would be too expensive for airlines in today's low cost environment.

In addition, Mr. Del Balzo identified several fundamental flaws. For example, one significant failing of the OMP is that Chicago's class B airspace (which includes O'Hare, Midway, DuPage, Palwaukee and several other smaller airports and is already the busiest airspace in the country) is too congested to handle the City's projected seven hundred thousand additional operations per year. As a result of this and other findings, Del Balzo indicated that tearing up and rebuilding the runways at O'Hare would result in far less capacity enhancement than the City suggests and therefore would not be worth the cost or the ten-year disruption to air travelers. Del Balzo concluded that O'Hare could achieve an equivalent capacity increase far more quickly, with little or no disruption to the airport and for only a fraction of the cost by simply adding one additional runway within the existing airport footprint. (A copy of the Del Balzo study is attached as Exhibit "A".)

Two senior aviation leaders, David Hinson, former FAA Administrator, and Jonathan Howe, former Director General of the Airports Council International, jointly issued a public statement echoing Del Balzo's conclusions. (A copy of their statement is attached as Exhibit "B"). Hinson and Howe are independent aviation experts and neither has a contractual relationship with either the Villages or the City.

III. CONCERNS ABOUT FAA PROCESS.

In light of Del Balzo's, Hinson's and Howe's conclusions that the City's plan is unworkable and that its benefits would not merit its costs or its years of disruption to Chicago aviation, we have several specific concerns about the FAA's procedure for reviewing the OMP.

First, by allowing the City to submit an application for approval of revisions to O'Hare's Airport Layout Plan ("ALP") before it completes the Master Plan and before it evaluates the cost-benefits and viability of the City's mega-billion dollar plan, the FAA appears to have turned the ordinary process on its head. Under the FAA's own Orders, the ALP is supposed to be the end result of a national and regional planning process, not the beginning. (See, Exhibit "C", which summarizes FAA's planning process requirements.) The FAA has already spent nearly \$15 million in AIP funds and authorized over \$220 million in PFC funds for master planning. The FAA's failure to require the City to complete a Master Plan (a process which has only just begun) before the FAA reviews and considers the ALP contravenes the FAA's own guidelines.

Second, contrary to its own requirements which mandate thorough and early public participation, the FAA and the City have kept the critical details of both the ALP and Master Planning processes secret. The FAA has refused to provide interested communities (which will be most impacted by the OMP) critical documents exchanged between FAA and the City, arguing that communications between the FAA and the City of Chicago may somehow be

The Honorable Kenneth Mead

February 11, 2004

Page 4 of 5

withheld as "intra-agency" communications under Exemption 5 of the Freedom of Information Act.

Third, thus far the FAA has limited debate on the ALP only to technical issues such as placement of navigation aids, runway lighting and location of runways and has refused to consider larger, more important threshold issues such as whether the Chicago airspace can handle 700,000 more flights per year, whether the OMP will increase rather than decrease delays, whether its costs would outweigh its benefits, and whether there are other more sensible, and less costly, alternatives.

Fourth, the FAA apparently is asking no questions about the financial viability of the OMP. Given that United Airlines, the main tenant at O'Hare, is in bankruptcy, has a \$7 billion unfunded pension liability, has defaulted on the special purpose bonds issued to finance its existing terminal and several other facilities at O'Hare, and is now suing the City of Chicago to enjoin it from enforcing its O'Hare Lease Agreements with United, see Exhibit D, (In re: UAL Corporation, et. al., complaint of Debtor-Plaintiff for Declaratory Judgment, filed September 18, 2003), the FAA's failure to consider the financial viability of the project is remarkable. Given that the project is so large that it will drain the lion's share of discretionary AIP funds for over a decade, leaving little money for other airports, the FAA's failure in this regard is incredible.

IV. REQUEST TO INVESTIGATE.

In light of the foregoing concerns we respectfully request that your office investigate the following specific issues:

1. Whether due process and the Administrative Procedure Act entitle interested parties to a fair, open and transparent administrative process, in which to meaningfully participate, including an objective and independent decision-making process, and access to all relevant information, documents, studies, forecasts and communications between the FAA and the City of Chicago on the City's ALP and funding requests?
2. Whether FAA should evaluate the financial viability of the proposed expansion, including a benefits-cost analysis as required by the AIP law (49 U.S.C. §47115(d)), before taking action on the ALP request, in light of the fact that the FAA is on notice that hundreds of millions of dollars of federal AIP funding is required as prerequisite to proceeding with the OMP?
3. Whether the requirements for System and Master Planning are being met, including whether FAA should require completion of the Master Planning process before it considers the City's ALP application as required by 49 U.S.C. §§47010 (g), 47103,

The Honorable Kenneth Mead

February 11, 2004

Page 5 of 5

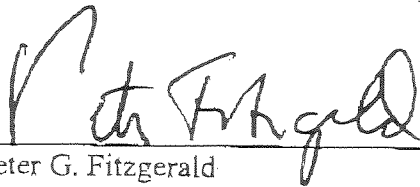
47106, FAA Order 5100.38B, and FAA Advisory Circulars AC No. 150/5070-6A, AC No. 150/5050-3B, and AC No. 150/5070-6?

4. Whether the ultimate limiting capacity factor for O'Hare is airspace, not runways, and therefore whether the limited capacity expansion achievable at O'Hare due to airspace constraints justifies the billions of dollars of costs and long-term passenger disruptions?

5. Whether the proposed OMP conforms to the FAA's 1984 Record of Decision on O'Hare, which stated that expansion of O'Hare beyond its then existing runway configuration would be subject to an FAA funded State System Plan, which State plan concluded that O'Hare's runways should not be expanded and instead new capacity should be constructed at a new south suburban airport?

Thank you for your prompt attention to this matter.

Sincerely,



Peter G. Fitzgerald
United States Senator,
Illinois



Henry J. Hyde
United States Representative
Sixth District of Illinois

PGF/HJH/dg

Enclosures